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1608/5-299

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S T A T E

OF THE

E V I D E N C E

ON THE TRIAL OF

WILLIAM JOLLIFFE, Esq.

FOR

A LIBEL AND MISDEMEANOR:

WITH

Mr. JOLLIFFE's Exculpatory Affidavit;

AND

HIS SPEECH

TO THE COURT OF KING'S BENCH.

Crime
174
199

L O N D O N;

PRINTED IN THE YEAR 1792.

1608/5299



T O T H E
R E A D E R.

TH E mind of man is too often prone to receive with an unfavourable impression, charges that are brought forward to criminate an individual, and when those charges are substantiated to the satisfaction of twelve men sworn to do justice, it would be disrespectful to them, not to give credit to their verdict. A person convicted must therefore make out something more than a probable case in his favour before he can pretend to ask mankind to exculpate him from a charge so confirmed.—Mr. *Jolliffe* labours under this difficulty, but thinks it a duty he owes to himself to lay before the World the evidence brought against him that they may be enabled to judge of his conduct.—In order that the whole case may be understood, it is proper for him to state his situation, in the neighbourhood where he lives. In the year 1789, he bought a large property for which a gentleman near him had been in treaty, but of which that gentleman was disappointed. Mr. *Jolliffe* is the only acting magistrate living within the hundred of *Reigate*; but some other Justices who come monthly from *London* and other distant places to an inn in *Reigate*, (*with the advice and assistance of an attorney of great wealth and power*) execute the judicial business of the hundred. The interference of an active magistrate who lived on the spot, and who is acquainted with the local circumstances of the country, it may be supposed, gave offence to those who are fond of *power*; every opposition was made to Mr. *Jolliffe's* wishes respecting the parishes where he had so large a property, and he had no reason to hope that those magistrates would accept his recommendation of overseers of the poor, for the parish of *Chifford*.

The burden of the poor is almost universally complained of; in this parish it amounted to one-fourth of the gross rents of the whole parish, although there were not any real paupers in the place, but the money was very improperly applied. To correct this evil, Mr. *Jolliffe* appointed, under the advice of counsel, as to the legality of the act, three of the most respectable farmers in the parish, to be the overseers of the poor, and for so doing an information was exhibited against him in *Trinity* term 1790, by Mr. *Fanshawe*, the gentleman who wished to purchase the estate above mentioned, in conjunction with the attorney, who is clerk to the justices who come to *Reigate* on the ground that he had proceeded corruptly.

Every possible report injurious to Mr. *Jolliffe's* character was spread with industry. In order to correct the effects of such unjust reports, he thought it necessary to print an account of his conduct. For so doing, another information was exhibited for a libel against Mr. *Fan-hawe*, in *Michaelmas* term 1790. The evidence on the trial is here inserted, and on that evidence Mr. *Jolliffe* was sentenced to an imprisonment in the King's Bench for six months and a fine of 100*l.* for *such* libel and *such* publication. The libel being tried first, there was a positive engagement entered into, in the presence of the judge, that all further proceedings should cease, notwithstanding which, the original information was again brought on at the last assizes at *Kingston*, during Mr. *Jolliffe's* confinement, where he was not permitted to attend, and therefore had no opportunity of making that defence in person which he is persuaded would have exculpated him; and he must be contented in vindication of himself to state the evidence for the opinion of the world.

The judge's report, Mr. *Jolliffe's* exculpatory affidavit, and his speech in court, are stated with accuracy, as taken by a short-hand writer; and he flatters himself after reading these with attention, the Public will be of opinion that he acted from motives of advantage to all the occupiers in the place, and that it was an exertion of his authority, which in his circumstances became a duty.

The Information for the Libel states,

That the coroner and attorney giveth the said Court to understand and be informed that such issue as aforesaid, having been so joined as aforesaid, upon the said information the said issue stood for trial, and was intended and about to be tried by a jury of the county, at the assizes holden at *Kingston upon Thames*, within and for the said county of *Surry*, on *Wednesday* the 23d day of *March*, in the 31st year aforesaid, and that the said *William Jolliffe*, unlawfully, and wickedly, and corruptly designing and intending to pervert the due course of justice, and to influence the said then intended trial of the said issue, so joined upon the said information as aforesaid, in favour of the said *William Jolliffe*, by insinuating that he the said *William Jolliffe*, was not guilty of the premises so charged upon him as aforesaid, and that the said prosecution against him the said *William Jolliffe*, was malicious and groundless, on the 25th day of *March*, in the 31st year aforesaid, with force and arms, &c. at *Kingston upon Thames*, in the said county of *Surry* during the said assizes, there and whilst the said issue so joined upon the said information as aforesaid, so stood for trial and was intended and about to be tried as aforesaid, did wickedly and unlawfully publish, and cause and procure to be published, a certain printed paper touching and concerning the matters for which the said information, so about to be tried as aforesaid, had been exhibited, which said printed paper was and is to the tenor and effect following, that is to say, (*vide* the next count) with the intent thereby wickedly and corruptly to pervert the due course of justice, and to influence the said then intended trial of the said issue, so as aforesaid, joined upon the said

said information so filed against him, the said *William Jolliffe*, as aforesaid, in favour of him the said *William Jolliffe*, to the great hindrance and obstruction of the due and impartial administration of justice, to the evil example of others in the like case offending, and against the peace of our said lord the king, his crown and dignity.

SECOND COUNT.

That the said coroner and attorney, further giveth the said Court to understand and be informed that the said *William Jolliffe*, being a person of wicked and evil minded disposition, and contriving, and wickedly, and maliciously intending to injure, and defame the said *John Fanshawe*, (he the said *John Fanshawe*, then and there being a good, peaceable and worthy subject of this realm, and to asperse and vilify the character and reputation of the said *John Fanshawe*, and to bring him into contempt and hatred, by insinuating that the said last charge so made against him, the said *William Jolliffe*, as last aforesaid, was malicious and groundless, and that the said *John Fanshawe*, had unjustly and from resentment towards the said *William Jolliffe*, stirred upon and invented the means of making such charge on the 25th day of *March*, in the 31st year aforesaid, with force and arms, &c. at *Kingston upon Thames*, aforesaid, in the said county of *Surry*, pending the said last mentioned information, and before the same was determined, did unlawfully, wickedly and maliciously publish, and cause and procure to be published, a certain scandalous, malicious and defamatory libel of and concerning the said last mentioned charge, against him the said *William Jolliffe*, and of and concerning him the said *John Fanshawe*, containing therein, (*amongst other things*,) certain scandalous, malicious, and defamatory matter, of and concerning him, the said *John Fanshawe*, to the tenor and effect following, (*that is to say*,) "The gross rental of the parish of *Chipsted*, (*meaning the said parish of Chipsted in the said county of Surry*,) is 1036 l. 17 s. 6 d. a year, there are about thirty houses in the place, (*again, meaning the said parish of Chipsted*,) and not more than 4 or 5 real paupers, and 6 or 8 fatherless children, yet it is burdened with a poor rate of 5 s. in the pound, rack-rent, Mr. *Jolliffe*, (*meaning the said William Jolliffe*,) is owner of near half the parish, (*meaning the said parish of Chipsted*,) and when his estates (*meaning the estates of the said William Jolliffe, in the said parish of Chipsted*,) were to be let, he (*meaning the said William Jolliffe*,) found those who applied to take them, (*meaning the estates of the said William Jolliffe*,) were unwilling on account of the mismanagement of the poor, (*meaning the poor of the said parish of Chipsted*,) to treat with him, (*meaning the said William Jolliffe*,) he (*again meaning the said William Jolliffe*,) was therefore advised by his surveyor and steward, (*meaning the surveyor and steward of him the said William Jolliffe*,) to take that burden on himself, (*meaning himself, the said William Jolliffe*,) as they (*meaning the said surveyor and steward of the said William Jolliffe*,) imagined that if proper persons were appointed parish officers, (*meaning officers of and for the said parish of Chipsted*,) it would greatly reduce that expence, he (*meaning him the said William Jolliffe*,) therefore attended the vestry, (*meaning the vestry of*

“ of the said parish of *Chipsted*,) at the nomination of churchwardens
 “ (meaning the churchwardens of the said parish of *Chipsted*) ; and finding
 “ that the *INSERTIOR* (meaning inferior) persons in the parish (meaning the
 “ said parish of *Chipsted*), who had conducted the business, were determin-
 “ ed to continue the same lucrative employment to themselves, he (meaning
 “ himself the said *William Jolliffe*) considered how it was possible to cure
 “ the evil, having no reason to hope that the magistrates, who have for
 “ some time acted at *Reigate* (meaning *Reigate* in the said county of *Surry*)
 “ would be inclined to favour his (meaning his the said *William Jolliffe*’s) re-
 “ commendation of overseers of the poor (meaning the overseers of the poor
 “ of the said parish of *Chipsted*) ; and having taken the advice of counsel, as
 “ to the legality of the measure, he (meaning he the said *William Jolliffe*)
 “ *SELT* (meaning felt) it his (meaning his the said *William Jolliffe*’s) duty to
 “ use the means in his (meaning the said *William Jolliffe*’s power) power of
 “ doing an act so beneficial to the whole parish (meaning the said parish of
 “ *Chipsted*) ; and he (meaning the said *William Jolliffe*) therefore procured the
 “ appointment of the most substantial persons in the parish (meaning the
 “ said parish of *Chipsted*) to be overseers of the poor (thereby alluding to and
 “ meaning the said appointment of overseers of the poor of the said parish of
 “ *Chipsted*, so as aforesaid charged and alledged to have been corruptly made by
 “ him the said *William Jolliffe*). This step (thereby again alluding to and
 “ meaning the said appointment of overseers of the poor of the said parish of
 “ *Chipsted*, so as aforesaid charged and alluded to have been made by him the
 “ said *William Jolliffe*) which took from some a lucrative office, and from
 “ others the expectation of benefit, in their turn ; and in particular, de-
 “ prived *Mr. Fanshawe* (meaning the said *John Fanshawe* of the said parish of
 “ *Chipsted*, *Esq;*) of what power he (again meaning the said *John Fanshawe*)
 “ possessed in that place (meaning the said parish of *Chipsted*) gave him
 “ (again meaning the said *John Fanshawe*) a handle of exercising his re-
 “ sentiment against *Mr. Jolliffe* (meaning the said *William Jolliffe*) for having
 “ purchased the estate which he *Mr. Fanshawe* (meaning the said *John Fan-*
 “ *shawe*) wanted to possess : he (again meaning the said *John Fanshawe*)
 “ therefore invented the means of stirring up a charge of corruption as a
 “ magistrate (thereby alluding to and meaning the said charge so made against
 “ him the said *William Jolliffe* as aforesaid ; and also meaning and insinuating
 “ that such charge was groundless and malicious) against him (meaning the
 “ said *William Jolliffe*) and affirmed that he (again meaning the said *William*
 “ *Jolliffe*) made the appointment (meaning the said appointment of over-
 “ seers of the poor of the said parish of *Chipsted*, so charged and alledged to
 “ have been corruptly made by him the said *William Jolliffe* as aforesaid)
 “ not to reduce the parish expences (meaning the expences of the said parish
 “ of *Chipsted*) ; but to keep down the rate on his own estate (meaning the
 “ estate of him the said *William Jolliffe*, in the said parish of *Chipsted*) of which
 “ he meaning the said *John Fanshawe* reported he (meaning the said *William*
 “ *Jolliffe*) had raised the rents to a very great amount. The copy of the
 “ original rate, at 2 s. 6 d. in the pound, with the rents, and of the rate
 “ made by the overseers (meaning the overseers of the poor of the said parish
 “ of *Chipsted*) appointed in defiance of his (meaning his the said *William*
 “ *Jolliffe*’s) wishes, with the rents are as under,

Old Rent as by former Rates.			New Rent as stated by present Overseers.		
Rent.	Rate.		Rent.	Rate.	
£.	£.	s. d.	£.	£.	s. d.
115. Mr. Stone -	14	7 6	14. Mr. Jolliffe	1	15 0
15. Mr. Perceval	1	17 6	115. Mr. Stone	14	7 6
73. Mr. Bailey -	9	2 6	116 10. Mr. Shurman	14	10 0
8. Mr. Longley -	1	0 0	8. Mr. Longley	1	0 0
89. Mr. Eastland	11	2 6	169. Mr. Pearce	21	2 6
56. Mr. Butt -	7	0 0	50. Mr. Butt	6	5 0
26. Mr. Reeves	3	5 0	39. Mr. Packham	4	17 6
32. Mr. Bunce	4	1 3	12. Mr. Friday	1	10 0
25. Mr. Sharman	3	2 6	20. Mr. Mugridge	2	10 0
9. Mr. Friday -	1	2 6	15. Mr. Mugridge	1	17 6
20 Mr. Mugridge	2	10 0	3. Mr. Clarke	0	7 6
23. Mr. Killick	2	17 2			
3. Mr. Clarke	0	7 6			
			£. 561 10		£. 70 2 6
£495.		£ 61 16 3			

" By this it appears that the increase, according to the most exaggerated state of his (*meaning the said William Jolliffe's*) adversaries, is only an increase on the whole estate (*meaning the aforesaid estate of the said William Jolliffe, in the said parish of Chipstead*) of 66 l. 10 s. a year: a rate of 2 s. 6 d. in the pound on that sum, will amount to 8 l. 6 s. 3 d. Now contrast that with the savings of half the expences incurred in maintaining the poor (*meaning the poor of the said parish of Chipstead*), which last year and several preceding years, amounted to 5 s. in the pound, and on the whole rents of the parish (*meaning the said parish of Chipstead*) which are 10. 6 l. 17 s. will produce 129 l. 11 s. 2½ d. to the whole parish (*again meaning the said parish of Chipstead*) and to Mr. Jolliffe (*meaning the said William Jolliffe*) in particular 61 l. 6 s. 3 d. supposing only a saving of half the expence; by appointing proper parish officers; but Mr. Jolliffe (*meaning the said William Jolliffe*) is clearly of opinion that a reduction, considerably larger, might be effected. Add to this an appeal against an unequal rate would have defeated the object in the first instance; let any impartial man, therefore, judge which was the motive that actuated his conduct (*meaning the conduct of him the said William Jolliffe*) in the making of the said appointment of overseers of the poor of the parish of Chipstead, so charged and alledged to have been made by him the said William Jolliffe as aforesaid, whether by a fraudulent rate to save 8 l. 6 s. 3 d. or less if the rate was in a less proportion, or to save 129 l. 11 s. 2 d. at least to the parish (*meaning the said parish of Chipstead*) at large, and 61 l. 6 s. 3 d. to himself (*meaning the said William Jolliffe*) or more if the expences were diminished in a greater degree. The affidavits of his enemies (*thereby alluding to and meaning the said affidavits so as aforesaid made and exhibited to the said Court upon the aforesaid application to the said Court for the said information against the said William Jolliffe*) do not alledge any fact to prove his (*meaning the said William Jolliffe's*) desire to have an unjust rate, and the overseers (*meaning the said persons so charged and alledged to have been appointed overseers of the poor of the said*

"said parish of Chipstead by the said William Jolliffe as aforesaid) swear positively that he (meaning the said William Jolliffe) never applied to them for that purpose, nor indeed was in his (meaning the said William Jolliffe's) contemplation."

The Examination of CARPENTER SMITH, Esq; at the Trial to prove the Publication of the Libel.

RICHARD CARPENTER SMITH, Esq; sworn. Examined by Mr. Garrow.

Q.—I believe you are a magistrate of this county?

A.—I am.

Q.—Did you attend at the last assizes?

A.—I did.

Q.—I don't know whether you was on the grand jury at the last assizes?

A.—I was upon the grand jury at the last assizes, my Lord.

Q.—Of course you was attending in the town of Kingston upon Thames, where the assizes were held, during the assizes?

A.—I was.

Q.—Be so good as to look to that printed paper that was annexed to your former affidavit?

A.—There is my mark upon it.

Q.—From whom did you receive this printed paper?

A. I received it from Mr. Jolliffe.

Q.—When did you receive it, Mr. Smith.

A.—On Friday the 25th day of March last.

Q.—Was that, Sir, after the commencement of the assizes?

A.—I believe the commission day was on the Wednesday, and this was on the Friday.

Q.—Was it before the day appointed for the trial of the information against Mr. Jolliffe?

A.—It was before the trial, and before the jury were called, it was not till the Monday after?

Q.—It was after the appointment of the day for trial?

A.—I say, I suppose the cause to have been fixed for trial among others.

Q.—Did I understand you right, or misrepresent you, when I suppose you to have said it was after the appointment of it for trial?

A.—No, I did not say any such thing. I don't believe it was appointed till the Saturday; but I suppose every trial was appointed on the commission day?

Q.—It was after the commission day, and before the day of trial?

A.—It certainly was.

Q.—Do you know, from being present in court afterwards, whether this was a special jury cause?

A.—I do.

Q.—I don't know whether I asked you whether you received it in the assize town?

A.—I did, Sir.

Mr. Justice Gould.—The cause came on for trial on *Monday*?

Mr. Garrow.—Yes.

Mr. Justice Gould.—And this transaction took place on the *Friday*?

Mr. Erskine.—The *Friday* subsequent to the commission day, the cause standing for trial; a special jury upon the record.

Q.—Did you receive this paper singly, or did you receive more at the same time?

A.—I received four doubled together.

Mr. Justice Gould.—What time of the day was it?

A.—It was some time in the forenoon, but I cannot exactly say to half an hour; I should suppose some where about twelve o'clock, but I will not be particular. I had a great deal of business to do in the town.

Q.—Where was it delivered—in a house or in the street?

A.—In the street of *Kingston*.

Q.—Will you be so good to recollect, if you can, if Mr. Jolliffe said any thing on the delivery of the paper to you?

A.—Mr. Jolliffe and myself were in conversation: I cannot now exactly remember the conversation; but I believe it was something respecting the business; of the cause I cannot say exactly, either when it would come on, or what it was; Mr. Jolliffe gave me those papers, and asked me when he gave me those papers, as I stated in my former affidavit: he asked me if I had seen any of those papers. I was about to open the little parcel of papers to read them (I shall give you a fair account of what it was, though it is painful to me). I was about to open the paper, to read them, to see what they contained, Mr. Jolliffe desired I would put them into my pocket, which I did, without either reading them, or being told what the contents were, or knowing what it was, or without any further conversation respecting them.

Court. Q.—Respecting them?

A.—Respecting the papers, for I did not understand what they were, when I put them into my pocket.

Q.—Had you any conversation upon other subjects?

A.—Yes.

Q.—You did not know the contents till *Saturday* night?

A.—I did not.

Q.—What became of any of those papers? did you deliver any of them, and how many to any other person?

A.—I delivered two.

Q.—To whom?

A.—To Doctor *Weller*.

Q.—Upon what day?

A.—On that day.

Q.—Upon the *Friday* or the *Saturday*?

A.—Upon the *Friday*—it may seem extraordinary my saying, I know nothing of them—I should wish I might give an account of that delivery.

Q.—Whether of these papers you received from Mr. *Jolliffe*, you gave any to doctor *Weller*?

A.—I did two of them.

Q.—At the same time?

A.—No, at different times, I think on the *Friday*—that is the paper—that is one that is not distributed.

Q.—That is one, that was never out of your possession—You put the initials of your name upon it?

A.—Yes, Sir, that is one of those, it is one of the papers that were delivered to me by Mr. *Jolliffe*. I am not quite certain of that, if it is one that was sworn to in court, as being delivered to Doctor *Weller*.

Q.—Had you any of them papers delivered to you before the *Saturday*?

A.—I am asked if I knew of any of those papers before *Saturday*.—I did not receive any before.

Q.—The paper he holds in his hand, if I understand him right, he says, was delivered to doctor *Weller*—Are you able to say whether the paper which is annexed to your affidavit was one of those you kept in your possession, or one of those you gave to doctor *Weller*?

A.—I will not say it agrees; here is one of the papers, if the gentleman thinks proper to examine it.

Q.—How many have you in your possession of these papers?

A.—I have, I believe, one locked up at *Ewell*, and one in my hand.

Q.—Do you recollect whether any body in Court marked that paper?

A.—I don't remember.

Mr. *Justice Gould*.—You marked that paper in Court?

A.—I don't remember, my Lord. I brought two papers into Court, part of the four which Mr. *Jolliffe* delivered to me; the other two were produced as the two papers delivered by me to doctor *Weller*.

Q.—Do you happen to recollect whether, upon an objection to your swearing to a paper, it being of those that were delivered to doctor *Weller*—Do you remember some body suggested to you to mark it—whether it was not suggested to you to mark it and re-swear it; and whether this interlineation was made in writing, and re-sworn in court. You observe the words, one of which is hereunto annexed. Do you remember if that in the possession of doctor *Weller* was the thing annexed; and whether, upon your objection, these words were interlined, and it was re-sworn with that interlineation?

A.—It certainly is so interlined, but I don't recollect it: I remember marking the paper in order that I might know that was one of the papers.

Q.—Observe, Mr. *Smith*, see—how it stands, one of those papers is hereunto annexed?

A.—Yes.

Q.—Do you recollect objecting to those words being inserted, unless one of the papers should be annexed, which you could swear positively to by it coming out of your custody?

A.—I don't recollect.

Q.—But the thing annexed you have, no doubt, was one of the papers?

A.—No, I have no doubt of it.

Mr.

Mr. *Garrow*.—The paper now produced and marked with his initials, as one of the four he received from Mr. *Jolliffe*?

A.—Certainly.

[Mr. *Glover* was desired to attend while the paper was read.]

Q.—Mr. *Smith* you have said that you have no doubt this is one of the papers you received from Mr. *Jolliffe*?

A.—I think it is.

Q.—You gave two of those papers to doctor *Weller*?

A.—I did.

Q.—You have two now in your possession?

A.—I have one in my hand, and I think I have the other locked up.

Q.—Consequently, of the two remaining in your custody, this is not one?

A.—No.

Q.—When you gave that to doctor *Weller*, did you make any remark upon it?

A.—No, Sir, I did not know what it was.

Q.—Have you any other reason except doctor *Weller* producing them in court, and swearing to it: have you any other reason for knowing that this is one of the four you received from Mr. *Jolliffe*; or in other words, one of the two you gave to doctor *Weller*?

A.—I have some distant recollection there was some dispute respecting the four papers; and I do believe that marked is one of those that was given to me by Mr. *Jolliffe*.

Mr. *Pigott*.—I am afraid my question is not understood; there is no doubt at all this is one of the papers produced in court by Doctor *Weller*. That is not the object of my question: my question was to know, Whether you not having read those papers, and not having made any mark upon the papers before you delivered them to Doctor *Weller*; whether, supposing Doctor *Weller* had never appeared or come into court, whether, independant of what he had said or sworn, you have any other reason for knowing and ascertaining this as one of the papers you received from Mr. *Jolliffe* and delivered to Doctor *Weller*?

A.—I rather think it is not one of those that I delivered to Doctor *Weller* upon reading the affidavit that was resworn; there was a good deal of dispute in court respecting it. I would not say positively it is that which I delivered to Doctor *Weller*.

Q.—You say Mr. *Smith* you certainly before you delivered them to Doctor *Weller* did not read them?

A.—So far from reading them, that when Doctor *Weller* came up to me he asked me if I could give him one of Mr. *Jolliffe*'s cases, I told him I had none, neither had I ever seen or heard of any of Mr. *Jolliffe*'s cases.

Q.—Then not knowing the contents of them when you delivered it to Doctor *Weller* it is impossible to be able to ascertain, independant of what Doctor *Weller* said, this is one of the papers you delivered to Doctor *Weller*?

A.—No, I cannot.

Q.—Pray Sir, what was the name of the man to whom you delivered those two papers which you did deliver?

A.—Doctor *Weller*.

Q.—Mr. *Smith*, do you and Mr. *Jolliffe* live in habits of intimacy?

A.—Mr. *Jolliffe* and I meet as other gentlemen do, to do the publick business of the county. I don't know that I was ever in his house or he in mine; we meet as other gentlemen of the jury do.

Q.—You have, no doubt, a very extensive and very honourable acquaintance among the number as well as Mr. *Jolliffe*?

A.—Yes, and long have been, a great many years.

Q.—Consequently when you meet you are in confidence and have a great respect for each other?

A.—I believe so. I have no disrespect; but I have a great respect for Mr. *Jolliffe*.

Q.—Have you known Doctor *Weller* long?

A.—Yes, a great many years. I knew Doctor *Weller* as I know Mr. *Jolliffe*, I meet him upon public business as a magistrate among others.

Q.—Was Doctor *Weller* present when Mr. *Jolliffe* gave you those papers?

A.—I did not see him, and I cannot say; I should rather suppose he was not present by what passed between him and me afterwards, for when we came to make affidavit, Doctor *Weller* called me aside—

Mr. *Erskine*.—Don't state what Doctor *Weller* said.

Mr. *Pigott*.—What said Dr. *Weller* to it?

Mr. *Erskine*.—I object to that.

Mr. *Pigott*.—Am I not to enquire into it when that has been read— You had no right to read it at all.

Mr. *Erskine*.—We have read one which never was given to Doctor *Weller*.

Mr. Justice *Gould*.—Be so good to let me read what I have got.

(Mr. Justice *Gould* reads his Notes.)

Mr. *Garrow*.—Those words, "one of which is hereunto annexed" is superadded, and then it is re-sworn.

Mr. Justice *Gould*.—Upon what ground does Mr. *Erskine* object, he should say in what manner he understood it?

Mr. *Pigott*.—Then the objection he made he is obliged to give up.

Q.—Now Mr. *Smith*, Mr. *Jolliffe* gave you a parcel of papers, did he not?

A.—Yes Sir, he gave me four.

Q.—Were they sealed up?

A.—No.

Q.—Were they wrapped up?

A.—They were together as these papers are.

Q.—I understood, independant of the one that has been read, you said, you had one of those papers in your hand and one other at home?

A.—I think I have; I will give you the reason, when I looked for two in *London* I found but one upon my return from *Nottingham* the other day, I believe I have the other at *Ewell*.

Q.—Having given two to Doctor *Weller* it seems to be as plain as 2 and 2 makes 4, that that is not one of the two you kept?

A.—Oh no, this is not one of the two, I kept to this time, because it has been in the custody of the officer.

Mr. Justice *Gould*.—This is not one of the papers he delivered to Doctor *Weller*.

Mr. *Pigott*.—Then it cannot be one of those that were given to him by Mr. *Jolliffe*.

Mr. Justice *Gould*.—What is your reason you rather think that it is not one of those you delivered to Doctor *Weller*?

A.—Why, my Lord, I was not quite certain at first, but Mr. *Garrow* has referred me to an affidavit which I have since made with the additions, and I think I made the objection; a great deal was said in Court. I do think, when I swore they were papers given by Mr. *Jolliffe*, that I would be certain it was one of those papers, and one of my own was put in, and it was re-sworn.

Mr. Justice *Gould*.—Then it was in the custody of the officer ever since.

Mr. *Garrow*.—Yes, and it is produced by Mr. *M^r Michael*, and there is Mr. *Smith's* initials upon it.

Mr. *Pigott*.—Then I am now to understand, that having recollected yourself and reconsidered, you are perfectly clear that that paper which has been read is the paper you supposed to have been at home, is one of the four, and not one of those delivered to Mr. *Weller*?

A.—I don't suppose it is that which I have at home; it was one of the four I received from Mr. *Jolliffe* that was never read by me till Saturday night, not one that I refer to as being at home now.

Q.—The paper which has been read is not one of the two which has been delivered to Doctor *Weller*; you seem to understand me to be addressing my question to that: not being one of the two you delivered to Doctor *Weller*, had you ever read that paper until it was produced in Court?

A.—I never read the paper till Saturday night about 10 or 11 o'clock, in my own house at *Ewell*; no person in the world saw them there; I desired my servant to beat and brush my cloaths, and then I saw those papers; I took them out of my pocket and read them.

Q.—Am I to understand that that identical paper now produced, you read on Saturday night at your house at *Ewell*?

A.—I did, and never before; and I had no conversation with Doctor *Weller* about them. I told him I never had seen them.

Q.—Upon whose application did you produce that paper in Court?

A.—On Sunday night late I was served with a *subpœna* to attend and give evidence against Mr. *Jolliffe*.

Q.—Then I understand, until you was served with a *subpœna* on Sunday night at 10 o'clock you had not read the paper in question?

A.—Yes, I had read it on Saturday night.

Q.—Did Doctor *Weller* apply to you for those two papers whatsoever they were, that you gave him?

A.—Doctor *Weller* did two several times.

Q.—And he did not upon his first application desire two of you?

A.—Doctor *Weller* applied to me and asked me to give him one of Mr. *Jolliffe's* cases, and I told Doctor *Weller* I had never seen any one of the cases of Mr. *Jolliffe*.

Q.—Then you did not offer the papers to Doctor *Weller*, nor had any conversation with him whatever upon the subject of them, but Doctor *Weller* applied to you for one of Mr. *Jolliffe's* cases?

A.—That is the truth. I answered Doctor *Weller* I had never seen any such thing; Doctor *Weller* then said, have you not got some printed papers; I immediately recollected that I had some papers in my pocket, but I did not know what they were, I pulled them out and opened them, and he said, "that is them, give me one;" I was then in a hurry, I think in the grand jury room.

Q.—Did Doctor *Weller* state to you for what purpose he wanted that paper?

A.—Not at that time.

Q.—Not at that time?

A.—Not at that time.

Q.—Mr. *Smith*, have I got what you said, right, Mr. *Jolliffe* desired that you would put them into your pocket; upon your offering to read them he desired you would not read them?

A.—He desired I would put them into my pocket.

Q.—Have you stated, as referable to the papers, the whole of the conversation between Mr. *Jolliffe* and you?

A.—I have.

Q.—I need then hardly ask you if Mr. *Jolliffe* desired you to deliver over any of those papers either to a man called Doctor *Weller* or any other man?

A.—He did not. I had no conversation whatever with him about it?

Q.—Then the papers which have been read in Court slept in your pocket unread by any body but yourself on *Saturday* night, and remained there till called for on *Monday* morning?

A.—As I have told you before I did not know that I was to be called upon till I came into court on *Monday* morning; as to saying of their being shewn to any human being, I took them out of my pocket on *Saturday* night, and they might be seen by some of my family, but they were never made any kind of use of by me.

Q.—That was given to you by Mr. *Jolliffe*?

A.—That was given to me by Mr. *Jolliffe*: you are upon very great niceties; that paper is one that I gave to Doctor *Weller*, as he has sworn it; he had two, that might be the other.—Four were given to me; two I distributed to Doctor *Weller*, two I kept; they were all mixed together in court, it is impossible for me to say, all agreed to be the same, which of them that is, I cannot recollect; but I think there was an alteration in the affidavit, stating, that that was one of the papers that were in my possession.

Q.—You mean one of the two that remained in your possession?

A.—Yes; that remained in your possession from the *Friday* when it was given to you on *Monday* morning.

Q.—When did you give the other to Doctor *Weller*?

A.—Some little time after Mr. *Jolliffe* had given them to me; he said that some friend had taken the other from him.

Q.—On the *Friday*?

A.—On the *Friday*.

Mr. *Garrow*.—Now Mr. *Smith*, the gentleman has been asking you about the identity of this paper, did you read the whole of the affidavit I shewed you?

A.—I read enough to correct my memory.

(*Mr. Smith looks at the Affidavit.*)

Mr. *Garrow*.—Q.—Be so good to read the whole of it yourself; in the first place I would ask, whether as it appears, that this interlineation was made with your consent and re-sworn?

A.—It was so.

Q.—Whether you have the least doubt, at the assizes, that was one of the papers delivered by Mr. *Jolliffe* to you?

A.—I have no doubt, none at all.

Q.—The one remaining paper is in your custody, and the annexed paper is one of those you received; have you the least doubt it is one of the four you received from Mr. *Jolliffe*, and one of the two you delivered to Doctor *Weller*?

A.—It is so; I looked three hours for one, and I do suppose I had locked up the other at home.

Q.—You are wrong in supposing you kept two?

A.—No I am not.

Mr. *Garrow*.—It is no fault of your's, your evidence is perfectly correct as it ought to be.

[*Mr. Justice Gould read part of Mr. Smith's Affidavit.*]

Mr. *Pigott*.—You were not upon the special jury to try that cause?

A.—I was not.

Q.—Nor subpoenaed till *Sunday* night?

A.—Nor subpoenaed till *Sunday* night.

Q.—The night before the trial?

A.—The night before the trial.

Mr. *Erskine*.—Mr. *Smith* properly says, upon giving him the affidavit to read, it brings it to his memory.

Mr. *Garrow*.—Will your Lordship take the trouble to look at it?

Q.—Have you the rough draft of the affidavit in your pocket?

A.—I have the rough draft.

Q.—Will you be so good to look at it; when you come near the conclusion, tell me what stands between the words "the and remaining"?

A.—Never issued any one of them except the one in question: one we took and annexed, the two that was altered, to the two remaining, and put the word one remaining, and it was in consequence of it I had the hint.

Mr. *Erskine*.—The sun is like a piece of sackcloth when compared to the clearness of this evidence.

Mr. *Justice Gould*.—One of those hereunto annexed, he says, two remaining are in my custody, and he thought proper to annex one of the two to that affidavit; there is an addition in the affidavit one of which is hereunto

hereunto annexed ; it appears there was only one, and therefore, that which was in the plural number at bottom, is changed to one.

Mr. *Garrow*.—That accounts for the whole four, and proves this must have been one in his possession.

Mr. *Erskine*.—The other has remained in his possession ever since, I am going to read if they don't admit it.

Mr. *Pigott*, we don't object to it.

Mr. *Garrow*.—*Q.*—(To Mr. *Glover*,) Have you looked at the inuendoes in this information?

A.—I have Sir.

Q. Do they appear to you to express clearly the meaning as you read the paper?

A.—They do Sir.

[Mr. Richard Robins, *Sworn*.]

Mr. *Garrow*.—Did you receive this printed paper from Doctor *Weller*?

A.—I did.

Q.—At the time?

A.—At the time.

Mr. *Garrow*, Mr. *Glover* has said, Mr. *Fanshawe* was prosecutor, that he has looked at all the inuendoes, and that these inuendoes express the meaning in which he reads the paper, and the information.

Q.—(To Mr. *Barnes*,) Did you receive that from Doctor *Weller*?

A.—Yes, I did Sir.

Q.—On what day?

A.—On *Friday* the 25th *March* last.

Mr. *Erskine*.—I contend it is evidence to be left to the jury, as having been a fac simile of the others.

Mr. *Pigott*.—Where is Doctor *Weller* to object to this evidence.

[Doctor *Weller*, *Sworn*.]

Mr. *Erskine*.—You delivered I understand a printed paper to Mr. *Barnes*?

A.—I did Sir.

Q.—From whom did you get that printed paper you delivered to Mr. *Barnes*?

A.—From Mr. *Smith*.

Q.—(To Mr. *Barnes*,) Is that the paper Doctor *Weller* delivered to you Mr. *Barnes*?

A.—Yes.

Q.—(To Doctor *Weller*) That is what you received from Mr. *Smith*?

A.—It is.

Q.—(To Mr. *Smith*,) I believe Mr. *Smith*, you have already said you delivered two, to Doctor *Weller*.

A.—Delivered two, at two several times.

Q.—(To Dr. *Weller*,) The paper you delivered to Mr. *Barnes*, was one of the two you received from Mr. *Smith*?

A.—It is.

Mr.

Mr. Pigott, (to Dr. Weller), I collected from my learned friend Mr. Erskine's opening, that you had observed something pass between Mr. Jolliffe and Mr. Smith?

A.—No Sir.

Q.—Then you had not observed any thing to have passed between Mr. Jolliffe and Mr. Carpenter Smith?

A.—No Sir.

Q.—You did go to Mr. Smith for the purpose of asking him for some paper of Mr. Jolliffe's?

A.—I did Sir.

Q.—I presume you did that by Mr. Barnes's desire?

A.—I did Sir.

Q.—Mr. Barnes was solicitor for the prosecution then depending and about to be tried?

A.—I did not know it then.

Q.—You was then perfectly ignorant Mr. Barnes was Mr. Fanshawe's solicitor?

A.—I did not know it at that time.

Q.—You mean Mr. Barnes the solicitor that sits here, having desired you to apply to Mr. Smith, for one of those papers you went?

A.—I went and he gave me one,—I said cases, he said he had not seen any cases, and then recollecting he had something in his pocket, he puts his hand in his pocket and pulled it out.

Q.—Having got it, you carried it to Mr. Barnes?

A.—I did Sir.

Q.—You went back again afterwards to Mr. Carpenter Smith, having got the first?

A.—I did.

Q.—And you told Mr. Smith, a friend had taken from you the one you had?

A.—I believe I made use of that expression.

Q.—That was not true?

A.—Not technically.

Q.—Having got the first paper at Mr. Barnes's desire, and having delivered it to Barnes as soon as you got it, you went back and told Mr. Smith, a friend had taken that one from you?

A.—I did.

Q.—Is that true or not?

A.—He did not snatch it from me.

Q.—You are a man of education and understand language, I speak very plainly, and say, you having gone to Mr. Smith, and told him you applied for a second paper?

A.—Yes I did Sir.

Q.—Did you not as a reason for applying to Mr. Smith, for a second paper tell him a friend had taken the first from you?

A.—I did Sir.

Q.—I ask you whether there is a word of truth in those words?

A.—I did use these words.

Q.—You having gone by Barnes's order to Carpenter Smith, to get one of those papers, and as soon as you got it, you gave it to Mr. Barnes,

and did you not apply for a second, and assign as a reason, a friend had taken the first?

A.—I did say so.

Q.—Was there a word of truth in that?

A.—He did not take it from me.

Q.—Had any friend taken it from you?

A.—No body had taken it.

Q.—Now Sir, did you tell Mr. *Carpenter Smith*, when you applied to him, that Mr. *Barnes* had desired you to apply for one of those papers?

A.—No, Sir.

Q.—Did you tell him when you applied for the second, that you had given Mr. *Barnes*, the solicitor, the first?

A.—No Sir, I did not.

Q.—Did Mr. *Barnes* desire you to apply for the second?

A.—No Sir, he did not.

Q.—Who desired you to apply for the second?

A.—I was sitting at the table by Mr. *Dickens*, I told Mr. *Dickens*, Mr. *Smith* had some of these papers.

Mr. *Erskine*,—You asked who it was desired him to apply for another paper, and you cannot do that without stating what somebody else said to him?

Mr. *Justice Gould*,—He was going to tell you what was the occasion of the second application, I don't see the inference of it.

Mr. *Piggott*,—Q. Did any body desire you to apply to Mr. *Smith*, for the second paper?

A.—I told Mr. *Dickens*, Mr. *Smith* had some, and he said he should like to see one.

Q.—Was Mr. *Dickens*, one of the prosecutors of that information?

A.—I don't know who was the prosecutor of it, at that time I did not know.

Q.—Are you ignorant now, who were the prosecutors of that information against Mr. *Jolliffe*?

A.—I did not know it when they gave me the paper.

Q.—You do not at this time know who are the prosecutors of that information?

A.—I do not.

Q.—You never heard Mr. *Barnes* say it?

A.—No, I did not.

Q.—You don't know who they are?

A.—I don't know any of them.

Q.—Is this a common occupation of your's, at the desire of a solicitor to do those acts?

A.—I never did it before.

Mr. *Piggott*,—And I hope you never will again.

Mr. *Erskine*,—It seems to be much ado about nothing.

Q.—You stated to Mr. *Smith*, that a friend, who was Mr. *Barnes*, had taken it from you, that a friend had taken it from you?

A.—Yes.

Q.—Do you mean to state there was any other incorrectness in your expression you made use of, except the words “taking” and “given”?

A.—There was not Sir; that was what I meant.

Q.—Was your motive for getting another, because Mr. *Barnes* had got the first?

A.—Yes, because Mr. *Dickens* wanted to see it.

Q.—Mr. *Dickens* wished to see it, and therefore you went back and made use of the expression, “a friend had taken it from you,” did you mean that any man had knocked you down or snatched it from you?

A.—No Sir.

Q.—I wish to know from you whether in making use of these expressions, you wished to do any thing dishonourable, or practise any fraud on Mr. *Smith*?

A.—I did not.

Mr. Justice *Gould*.—Let me ask you a question,—Whether by that expression “that a friend had taken it from you,”—you meant, that Mr. *Smith* should understand that you had delivered it to a friend?

A.—Yes, my Lord.

Q.—Is that what you swear?

A.—Yes.

Mr. *Erskine*.—It would be rather unfriendly to take it by force from a gentleman; I wish, as this gentleman is represented as having acted an extraordinary dishonourable part, whether it is not open for me to ask, whether he meant to commit any fraud?

Mr. Justice *Gould*.—My question puts it entirely out of the case, I have asked him this question, whether he meant by saying, “somebody had taken it from him,” to have it understood he delivered it to somebody, that is another matter than the imputation upon him.

Mr. *Erskine*.—I am perfectly content with your Lordship’s explanation, and I have done, if this third paper is taken as read.

Mr. *Piggott*.—It is.

Mr. *Smith*.—Mr. *Erskine*, I wish to have that paper from you.

Mr. *Erskine*.—You shall take it from me, you don’t mean to knock me down for it.

The above is the evidence to prove the publishing the libel, and for such publication Mr. *Jolliffe* was condemned to imprisonment for six months and a fine of 100 *l.* for stating his case, which is not denied to be true, and which the House of Lords require in all their proceedings.

In the KING’S BENCH, respecting the Information for appointing Overseers of the Poor.

The KING against JOLLIFFE,
MONDAY, MAY 14th 1792.

Mr. *Morris*.—My Lord I move for judgment, in the case of the *King* and *Jolliffe*.

B 2

Mr.

Mr. *Justice Grose*.—In this cause the indictment states, that on the 13th day of *April*, in the 30th of *George* the 3d.

Mr. *Jolliffe*.—My Lords, I am perfectly unapprised of what the contents of the report which is about to be read is, and as it probably contains much important matter to me, I shall be much obliged to you, to allow me to sit down, where I can take a minute with pen and ink.

My Lord Chief Justice.—Sit down there.

[The JUDGES' Report.]

Mr. *Justice Grose*.—In this case, the information states that certain lands belonging to the defendant, were in the occupation of divers persons, whose tenants and occupiers they were, and that on the said 13th day of *April*, *Thomas Bayley* and *Elias Lew*, were the overseers of the poor, and *James Fuller* and *John Reeves*, church wardens of the parish of *Chipsted*; *Richard Barnes* swore that he was clerk to the justices who acted at *Reigate*, and that the defendant attended, and nominally appointed by writing one *John Shurman*, *Thomas Packham* and *George Clerk*, overseers of the parish, in breach and violation of the defendant's duty as one of the justices of the peace, to prevent the defendant's tenants from being duly rated, and corruptly to acquire a majority: these extracts seem to me, to contain the substance of the counts to which they desire to refer to the information at large, the evidence is this *Richard Brackenbury*, clerk to the clerk of the peace, proves that the defendant was a justice of the peace and took his seat the 14th of *July* 1789, having put in his qualification as knight of the shire, and frequently acted as a magistrate since, that *Richard Barnes* clerk to the justices, *Joseph Wheatly* and *Robert Hudson*, acted in that division, proves they each voted in the appointment of high constable, acted as such clerk since, and never knew but two overseers for *Chipsted*, one of the magistrates acted in that division in 1790, and some time before, and Lord *Grantley* and the reverend *James Fielding*, and the defendant were there; on cross examination, he said Mr. *Hudson* does not now, nor did ever live in the hundred of *Reigate*, Mr. *Wheatley* did not live there, Mr. *Dickens* did not live there, the defendant did then live in the hundred, and had a considerable estate in it, he had lately come into the neighbourhood, his estate consisted of many farms. Has for some time acted for the hundred of *Reigate*; *Thomas Bayley* says, he was with *Elias Lew* appointed to the office of overseer. *Thomas Abberley* perused the register of the churchwardens, there were always two churchwardens, *James Fuller* said the defendant always had his residence in the hundred, came into possession in 1789, the witness went on the 10th of *August*, to the defendant as a justice, he called it one of his parishes, and was about making improvements. He did not state the nature of such improvements, and insisted the poor's rates should continue as they were, and if the parish raised the taxes, he should go to law with the parish, and would appeal against all the rates they should make; the defendant came to the witness's house on *Christmas-day*, and said Mr. *Packham* should come the next day to let some land to the witness, and if he and *Packham*, could not agree, he would come himself, and did not doubt but the witness and he should agree, he had asked 37*l.* the witness offered 30*l.* a year, the witness was then high constable in the hundred of *Reigate*,
and

and had the precept at that time, and had a special meeting in this parish, to consider who were fit to be nominated overseers, the magistrates named two, who only exercised the office, ten or twelve attended at the vestry, it is but a small parish, there was a meeting on *Easter Monday*, the defendant came there, looked over the book, said he did not know they were about business, objected to the witness being churchwarden, and that he should name Mr. *Pearce*, as a more responsible person, he was tenant to the defendant, the persons present disapproved of him, then two names as fit to go to the sessions, were written in the book, the defendant acknowledges the parish had a right to choose one churchwarden, the defendant at this meeting named the said *Thomas Packham* and *John Shurman*, who had newly taken some lands of him, but was not come to reside, the defendant turned round, and said to *Packham*, speak to that man, and said I will bring some of you to your senses and all, before I have done with you; they adjourned, the defendant said, those that stay may do the business, if you do adjourn; they met again and the defendant did not then attend. *Ambrose Glover* said, the appointment was so when he received it, *Thomas Bayley* said, he received the appointment in the condition it now is, from the defendant himself, at his own house, about the middle of *April*, he said, here is what I have done, he said I will tell you to whom to deliver it when your accounts are passed: on cross examination he said, he had no direction afterwards to deliver it to any one, the witness had it two or three days, and delivered it to the constable, the appointment was dated the 13th of *April* 1790, and was read, the examination of *James Fuller* was then resumed and continued, he was present at the meeting on the 27th of *April*, for the appointment of overseers, Mr. *Fielding* was there, the defendant went to him and said, where have you been all day, it is late; he said he wanted some breakfast, the defendant said, do not mind breakfast, they are about my business, he said what business? they went into the room, and the witness went in, and the defendant said, he had already appointed overseers, the defendant shewed the appointment he had made; *Dickens* and *Wheatly* scratched and made the appointment, which was of *Taylor* and *Elias Lew*; upon his cross examination he said, he had been overseer two years the last time, ten years ago the farm would have been convenient to him, he never did any thing to offend the defendant, the tax was reduced this year to 3 s. 6 d. Mr. *Fanshawe* has the next estate to the defendant, on the 3d of *June* 1790, *Shurman* lent him 169 l. *Shurman* resided in the parish several years, occupied a large farm of more than 200 l. a year, *Packham* was a substantial man in the parish, *Elias Lew* has about 100 acres at 33 l. *Taylor* about 40 l. a-year, *Fanshawe* has two farms. On his cross examination, he said the defendant's tenants were farmers of larger property, and liable to be rated, the witness said they rated this parish according to the rent if it could be found. *John Reeves* said he lived in the parish, they were rated according to the rent, since he knew the parish, he treated with the defendant for the farm that he since let to *Shurman*. The defendant said he meant to let all those lands tax free, and to take upon himself the church and poor, and high ways. The defendant said he always paid in that manner, the defendant said he should

advance the rent, and take the taxes to himself: the witness said the parish would tax up to the rent; he said if they do, I will apply first to the sessions, and then to the Court of King's Bench. I will go to *Westminster Hall*, if it costs me 1000*l.* He did not set any rent then, but afterwards set a price of 15*s.* an acre on what the witness had said before it was scarcely 9*s.* an acre, and it is now 15*s.* He thinks it was about five and thirty acres. The witness said he gave notice, on *Easter Sunday*, for a vestry to nominate parish officers; the defendant was there before the proceedings ended; when he first came into the vestry, he said they have not begun business; he did not know what they were doing, or to that effect; some of the people told him they had appointed two churchwardens. The defendant proposed two, many inhabitants objected; the defendant said he would give it up, but overseers were chosen in a different manner; there should be ten, as in the case of surveyors, several of the inhabitants, said they never heard of such a thing. The defendant said, I should wish to have every thing done according to law: the minister stopt, many of the inhabitants said they never heard of more than three nominated, and wished to have, according to the usual way, *Richard Pierce* and *Thomas Packham* were amongst them; and the inhabitants objected to the nomination, because they were not inhabitants. The defendant said, I will bring some of you to your senses, and all of you before I have done: but one *James Fuller* said, we shall adjourn: the defendant said you may if you like it; but those that remain behind shall or will do the business. Upon cross examination, he said *Pearce* and *Packham* had taken farms, but not got into their houses. The witness was turned out of possession in 1789, the parish rate was 5*s.* 6*d.* next 4*s.* 6*d.* and this year 3*s.* 6*d.* there were hardly half the number of paupers; several ancient people are dead, many poor people are gone or dead: they had before laid out large sums to repair the church; the highway rate had been lowered, but not owing to any thing done by the defendant. *John Bunce* said that he lived there in 1789, when the defendant came into the parish, applied for a farm to the defendant: the defendant proposed he should pay the parish taxes; the witness had left it in one year, the defendant would not let it him; the witness and his father have held the estate for forty years; some of the land had been taken off, 16 acres; for remainder the witness paid 28*l.* a year, says the defendant seemed angry, said he would appeal if it cost him 1000*l.* to have it determined: he has known the parish 30 years, and always rated it according to the actual rent. Upon cross examination, says the witness and his father, were tenants for 40 years, he thought it would be unjust to rate it at 50 guineas a year. *Ambrose Glover* said that on *Saturday* the defendant came to the witness's office on justice business, and asked when the day would be for choosing officers; he thought to send him notice, but did not; he did not mention he had any appointment. *Barnes* said he saw the defendant at the meeting at the justice's the 27th of *April*. *Mr. Wheatley* and *Hudson* attended regularly, as soon as the defendant produced an appointment of two persons, and insisted it was a legal appointment, and that they should not name any other parish officer, and desired they would take care what they were about to do. *Wheatley* said when they had so appointed overseers, he wished both appointments might go to the Court of King's Bench. The defendant made no other

other objection ; that the defendant called no witnesses, his counsel made observations on his case, which would be probably offered to the Court. The jury found the defendant guilty ; it did not appear on what terms he had let his estates."

Mr. Jolliffe.—My Lords,

Lord Chief Justice.—You must come into the Court now.

Mr. Jolliffe.—My Lords, from the very unfortunate situation in which I already stand, it was not possible to attend a trial that was carried on against me at *Kingston* ; and my Lords, I have therefore had scarcely any information of what passed at the trial, none but that which has been communicated to me accidentally, verbally by those that were there ; for I had no shorthand writer. I had not any information of the evidence, but what I have now heard from your Lordships. I am perfectly convinced that if I could be allowed, by the indulgence of the Court, sufficient time to state to your Lordships some circumstances, I am perfectly confident, I say, that I will satisfy you that so far from acting corruptly, or with an intent to injure others, or personally to benefit myself, that I have done that which, in my situation, I should have been highly blameable if I had not done : I hope, therefore, your Lordships will be pleased to indulge me with a copy of that report, or at least with time to consider it with the minutes I have taken.

Lord Chief Justice.—There is no objection to your having time to make an affidavit in mitigation, to state facts which may induce a mitigation of that which, as under the circumstances found by the jury, is a high offence.

Mr. Jolliffe.—My Lords, I am sure I can state such facts to your Lordships, that I will give any man leave to come forward if he please, and answer I can satisfy you that this——

Lord Chief Justice.—We cannot act upon it here, the law must be taken to be as it is here ; we are bound by the constitutional mode of ascertaining facts : the jury have said that this is the case ; and any collateral circumstances which may induce the Court to suppose that this or any thing that has been done proceeds from misapprehension or mistake, and not from those motives which the indictment applies to it ; these may be taken in mitigation of the sentence, but not at all to affect the verdict of the jury.

Mr. Justice Ashburst.—You should have instructed your attorney to have stated those facts at the trial, because the verdict plainly states the imputation cast upon you ; but your attorney ought to have been sufficiently aware of those facts ; and he might have informed you then, or you him, what evidence you have to negative, that charge in the indictment, but we cannot receive evidence to contradict the finding of the jury, though we may in mitigation.

Mr. Jolliffe.—I flatter myself it was done from a right principle.

Mr. Justice Ashburst.—But certainly that was very fit to be laid before the jury.

Mr. Jolliffe.—I humbly conceive this has been a verdict against me from inference, from merely loose conversation, said to have been held a very considerable time prior to this appointment ; the conversation was some time in *August* or *September*, and the appointment in *April* : now I

do conceive I shall be able to shew you that that conversation, if any thing did pass, has been compleatly misunderstood, and a great deal misrepresented; but in mitigation, I shall certainly have much to say, because, not conceiving myself guilty, not conceiving, I ought to be punished; my own mind convinces me that I ought to have done what I did as a justice of peace; if not, I certainly should have acted a very improper part; but I could shew, and I will do so if you permit me, that so far from having this corrupt view in contemplation, it was actually impossible I could have carried it into effect, under the circumstances in which these people stood: therefore I hope you will be pleased to indulge me with time to make an affidavit.

Lord Chief Justice.—It will be of no avail if it goes to controvert the facts established by the verdict; we cannot go from a proof of fact; there has been inquiry by a jury, counsel on both sides, and witnesses examined before the Court, therefore an affidavit against that cannot weigh a feather.

Mr. Erskine.—My Lord, nothing could give me more pain, representing the Crown of England as I do, if I should take any advantage of the unfortunate situation in which Mr. *Jolliffe* now stands, but undoubtedly we are under the necessity of objecting to any affidavit, which either traverses the facts which are found by the jury, or the motive which the jury have found; for those facts the cases are beyond all number in which the Court refuses those affidavits.

Lord Chief Justice.—Justice is administered to all people indifferently, and I wish to abide by the course of the Court; I mean that nothing can be received to impeach the verdict of the jury.

Mr. Erskine.—My Lord, I, for one, have no particular objection to any indulgence to this gentleman; but if it is to be meant as a rule, we certainly must take care as far as our professional situations are concerned.

Mr. Justice Ashurst.—Perhaps Mr. *Jolliffe* will think it prudent before he makes his affidavit to shew it to his counsel, and then if there is any thing improper he may strike out.

Mr. Jolliffe.—My Lord, it may be of consequence to me to have the affidavit of some other people.

Lord Chief Justice.—It must be some day within the term.

Mr. Jolliffe.—Must it, my Lord?

Lord Chief Justice.—I mean this; the time of the present imprisonment expires before the beginning of the next term; now the defendant cannot be set at liberty till future judgment is given; whether that future judgment will be imprisonment or not, I cannot say: his time expires the 24th of this month; the next term is the 8th of June: he must remain, therefore, under this conviction.

Mr. Jolliffe.—Under correction, I humbly submit that my being detained in custody is, that I may not escape punishment; I cannot run away; I dare say you have no such thoughts.

Lord Chief Justice.—I do not think you will; I know you are a man of property in the county; but we cannot do it according to the course of the law; you must be in custody till you are brought up for judgment.

Mr. Justice Buller.—Why cannot you bring it on Saturday?

Mr. Jolliffe.—If I am to make my own affidavit, I can be ready shortly; I perhaps may be permitted to move for further time.

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Lord Chief Justice.—At present he must be remanded.

Mr. Morris.—There is one thing I must mention, as counsel against *Mr. Jolliffe*; I not only shall object to an affidavit to negative the facts, but among those facts, the motive with which he did it; because I hold that motive as much a fact as any thing else that is found by that jury.

As *Mr. Jolliffe's* counsel declined calling any evidence on his behalf, the affidavits of *Mr. Eyles* the surveyor, of *John Shurman* and *Thomas Packham* the overseers appointed by him, are here inserted, to shew what their evidence would have been.

In the KING'S BENCH,

Richard Eyles, of *Eastman* in the county of *Southampton*, gentleman, maketh oath, and saith, That in or about the month of *July* in the year of our Lord 1788, this deponent was requested by *William Jolliffe*, Esq; now of *Merstham* in the county of *Surry*, Esq; to look over an estate which was then on sale, situate in the parishes of *Chipsted*, *Merstham* and *Childon* in the said county of *Surry*; and this deponent did in consequence of such request, view the said estate; and this deponent afterwards told the said *William Jolliffe* that it was the opinion of this deponent, that no considerable increase could be made in the rents of the said parish of *Chipsted*; but this deponent perceiving that the poor-rates for the said parish were excessively high and burthensome, advised the said *William Jolliffe* to agree with the tenants of his lands in the said parish, that he the said *William Jolliffe* should pay all rates and taxes due for the said lands, because this deponent conceived that if proper persons should be appointed to the offices of church-wardens and overseers of the poor in the said parish, and due attention given to the expediture of the money raised for the relief of the poor of the said parish, very great saving and benefit would arise to all the inhabitants of the said parish, and especially to the said *William Jolliffe*, who, if he purchased said estates, would be possessed of so considerable a property therein.

Rd. Eyles.

Sworn at the city of *Winchester* in the county of *Southampton*, the 25th day of *October*, in the year of our Lord 1790, before me

Geo. Fleetwood, a Commissioner, &c.

In the KING'S BENCH,

John Shurman of the parish of *Chipsted* in the county of *Surry*, yeoman, maketh oath, and saith, that on or about the 8th day of *May* last past, this deponent called at the house of *George Clarke* in the said parish of *Chipsted*,

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one of the other deponents, and told the said *George Clarke*, that he, this deponent, would meet the said *George Clarke* at the house of *William Jolliffe*, of *Merstham* in the said county, esq; or that the said *William Jolliffe* wished to speak with the said *George Clarke*, or words to that purport, but that this deponent did not mention any thing to the said *George Clarke* concerning the said *George Clarke's* signing any particular rate, and this deponent further saith, that the said *William Jolliffe* gave to this deponent a copy of a case and opinion of *William Adam*, esq; barrister at law, respecting the overseers of the poor of the said parish of *Chipsted*, in which opinion the said *William Adam* advised, that the first appointment to that office, was the valid appointment, and that the persons so appointed should begin to act immediately by making a rate for the relief of the poor of the said parish; and this deponent further saith, that he afterwards went to the house of *Thomas Packham*, of *Chipsted* aforesaid, yeoman, and there met the said *William Jolliffe*, and that the said *William Jolliffe* upon being informed of the said *George Clarke's* refusal to come to the house of the said *Thomas Packham*, said only, that he the said *William Jolliffe* was desirous that what was just and right should be done as to the making a rate for the relief of the poor of the said parish, and that the said *George Clarke*, *Thomas Packham*, and this deponent, ought to make such rate, or words to that purport, in conformity to the opinion of the said *William Adam*; and this deponent further saith, that he has frequently heard the said *William Jolliffe* complain of the great expence of maintaining the poor of the said parish of *Chipsted*, and express his wishes that such expences should be lessened, and that, on that account, the said *William Jolliffe* had undertaken to pay the rates assessed upon his lands in the said parish; and this deponent further saith, that he hath resided many years at *Gatton*, adjoining to the said parish of *Chipsted*, and hath, for a long time, been well acquainted with the affairs of the said parish, and hath rented lands for more than 12 years within the said parish of *Chipsted*, and hath now in his own occupation more than 200 acres in the said parish of *Chipsted*; and that he verily believes that the expences of maintaining the poor of the said parish have for some years been unreasonably great, on account, as this deponent believes, of the misconduct of the persons appointed to the office of overseers of the poor of the said parish, and of the improper manner of laying out the money raised for the relief of the said poor; and this deponent also further saith, that he well knows, that the said *William Jolliffe* hath several times offered to maintain all the poor of the said parish for a much less annual sum of money than has lately been expended in the maintenance of the said poor; and this deponent further saith, that he remembers attending the vestry on *Easter Monday* in the parish church at *Chipsted* aforesaid, and that several persons there present used very affronting language to the said *William Jolliffe*, but that the said *William Jolliffe* did not appear wrathful or use any words of warmth, to the best of this deponent's recollection; and this deponent doth expressly make oath, and saith, that neither the said *William Jolliffe* or any other person should influence or induce him to do any act which in his opinion was unjust and wrong.

John Shurman
Sworn

Sworn at *Merstham* in the county of *Surry*, the 14th day of *October* 1790,
before me,

A. Broughton, commissioner, &c.

In the KING'S BENCH,

Thomas Packham of the parish of *Chipsted* in the county of *Surry*, yeoman, maketh oath, and faith, that he hath heard, and verily believes, that some time in the month of *May* 1789, *William Jolliffe*, Esq; one of his majesty's justices of the peace of the said county, purchased a very considerable estate at *Chipsted*, *Merstham* and *Chaldon* in the said county, and is owner of more than the two-thirds of the property in the said parishes of *Merstham* and *Chipsted*; and this deponent further faith, he hath several times been present at the house of the said *William Jolliffe* when he hath invited his neighbours, and hath always heard the said *William Jolliffe* express an anxious desire to render them any service, and particularly of his wish to reduce the unnecessary expences of maintaining the poor, and as the said parish of *Merstham* had lately been involved in a very expensive appeal, he hath heard the said *William Jolliffe* caution them against entering into litigation, to which he observed, some of the inhabitants of *Chipsted* seemed much inclined; and this deponent further faith, that he hath frequently heard the said *William Jolliffe* express a desire to improve his estates, and is endeavouring to improve them, but no improvements having been effected, he expressed a wish that no immediate alterations should be made in the rates or parish taxes, because it might be the occasion of appeals, in which the parties might expend a large sum especially as the estate of *John Fanshawe* Esq; is rated much under its value; and this deponent further faith, that he hath acted as steward to the said *William Jolliffe* since *Michaelmas* 1789, and that since the said *William Jolliffe* hath been possessed of the said estates in the parish of *Chipsted*, the whole estate except about 30 acres hath been let to tenants, and that the said 30 acres hath frequently been offered to let by the said deponent, and particularly to *James Fuller* one of the other deponents, who was nearly taking the same; this deponent therefore conceives, that the said *William Jolliffe* had no view, nor could he by keeping the said lands in his own occupation prevent the rating of other lands to their value; and this deponent further faith, that he hath often been consulted by the said *William Jolliffe* respecting the letting his farms in the said parishes of *Chipsted* and *Merstham*; and this deponent has always advised the said *William Jolliffe* that no considerable increase could be made in the rents of his farms in the parish of *Chipsted*; but this deponent conceiving the expence of maintaining the poor of the said parish to be excessive and unreasonably great, has always advised the said *William Jolliffe* that great improvement could be made in his said estates if he the said *William Jolliffe* would take upon him the payment of all rates due for his lands in the said parish, and if honest and active persons were appointed church-wardens and overseers of the poor that would pay proper attention to the expenditure of the money raised for the relief of the poor; and this deponent further faith, that several persons

sons have, to the knowledge of this deponent, made application to hire the lands of the said *William Tolliffe* in the said parish, and have been desirous of having the same, but have afterwards objected to taking them on account of the excessive burthen of the poor-rates of the said parish; and this deponent further saith, that it was agreed by the said *William Tolliffe* and his new tenants, that such tenants should respectively hold their farms free from poor-rates, and that such rates and assessments should be paid by the said *William Tolliffe*, that in consequence of such alteration in the manner of letting the rents paid for the farms appears greater than the rents formerly paid for the same; but this deponent further saith, that the actual sums to be received, calculating the charges for maintaining the poor, the church and highways will, if the same mis-management continues, probably be not more than when in the hands of the former tenants, and will certainly be less if the parish is to be involved in frequent suits and expensive litigation; and this deponent further saith, that he hath for 6 years, until *March* last, resided in the liberty of *Kingwood* immediately adjoining the said parish of *Chipsted*, and is well acquainted with the said parish, and that the poor-rates of the said liberty of *Kingwood* are only 2s. 6d. in the pound, whereas the rates for the relief of the poor of the said parish of *Chipsted* are in the proportion of 5s. in the pound, and have been continually increasing, and are likely to increase under the present management; and this deponent verily believes, that a much less sum properly expended, would be ample for the maintenance of the poor of the said parish; and this deponent further saith, that to the best of his recollection and belief, at the time of the vestry being held in the said parish of *Chipsted* for the purpose of nominating church-wardens for the said parish as mentioned in the affidavit of *James Fuller*, *John Reeves* and *Thomas Bailey*, the said *William Tolliffe* did not, to the best of this deponent's recollection, use any wrathful or violent language, but that several of the persons there assembled having behaved towards him the said *William Tolliffe* with disrespect and ill language, the said *William Tolliffe* treated their behaviour with derision and contempt; and this deponent saith, that to the best of this deponent's recollection and belief, upon a division made at the said vestry respecting the appointment of church-wardens, the said *James Fuller* and *John Reeves* were elected to that office by a majority of one only; and this deponent further saith, that there was at such vestry a list of persons made proper to serve the office of overseers, and that the names of *John Shurman*, *George Clarke* and this deponent, were in such list, as this deponent believes; and this deponent further saith, that he hath always heard the said *William Tolliffe* express an anxious desire to benefit the said parish and all the inhabitants thereof; and that during the course of the last winter he hath heard and believes that the said *William Tolliffe* offered to cloath all the poor children of the said parish at his own expence, as this deponent hath heard, and believes the persons who compose the parish meeting and particularly the said *James Fuller* prevented the poor people of the said parish from giving any account of their children, and induced them to refuse the offer of the said *William Tolliffe*; and this deponent further saith, that on or about the month of *March* last the small pox was very prevalent in the neighbourhood of *Chipsted*, and the said

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William Tolliff directed him this deponent to attend at a vestry for the said parish, and to make an offer to inoculate all the poor of the said parish at his own expence, but that the persons who were at the said vestry refused the said offer; and this deponent further saith, that he this deponent hired a farm belonging to the said *William Tolliff* in the said parish, from *Michaelmas* 1789, for the term of 14 years, which farm was then occupied by one *John Bunce*, and that this deponent took possession of the land belonging to the said farm soon after *Michaelmas* 1789, but that the said *John Bunce* was allowed to have part of the said house for the purpose of threshing out his corn and expending his fodder until on or about the 21st of *March* last; that on the 20th of *March* last this deponent sent his children and servants into the dwelling house of the said farm, and that this deponent slept in the said dwelling house several times after that day; that this deponent kept house there, and that the children and servants of this deponent constantly resided and slept in the said dwelling-house from the 20th of *March*, notwithstanding the family of the said *John Bunce* remained in the said dwelling house for some short time after the 21st of *March*, being unable to remove therefrom without danger, on account of their being ill with the small-pox, but since that removal of the said *John Bunce*, which happened a short time after this deponent came with his wife and all the remainder of his family, and hath constantly resided therein since such removal; and that this deponent did therefore consider himself as a householder in the said parish of *Chippstead* from the said 21st of *March*, which is previous to the time of this deponent being appointed one of the overseers of the poor of the said parish by the said *William Tolliff* and the Reverend *James Fielding*; and this deponent further saith, he this deponent and *John Shurman* and *George Clarke*, the persons appointed overseers of the poor of the said parish, together with this deponent, by the said *William Tolliff* and *James Fielding*, hearing that two other persons had been appointed to the said office by other justices of the peace of the said county of *Surry*, were doubtful in what manner they were to act with regard to their said office, and that thereupon, for the information of this deponent and the said *John Shurman* and *George Clarke*, as this deponent verily believes, the said *William Tolliff* consulted *William Adam*, esq; barrister at law, upon that subject, and gave a copy of the case laid before the said *William Adam*, and of the said *William Adam*'s opinion thereon, to this deponent, and the said *John Shurman* and *George Clarke*, for their direction in that affair, in which the said *William Adam* advised the person first appointed to the said office of overseers of the poor of the said parish to act in the said office by making a rate for the relief of the poor of the said parish; and this deponent further saith, that this deponent and the said *George Clarke* and the said *John Shurman* had several conversations together upon the subject of making a rate for the relief of the poor of the said parish, but that no rate was at any of those times agreed upon amongst them, or made by them, nor hath any rate yet been made by them; and this deponent further saith, that he and the said *John Shurman* could not act as overseers of the poor because the said *George Clarke* would not act, and because the late overseers refused to deliver them the books and accounts; and this deponent further saith, that

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in the different conversations which this deponent hath had with the said *William Jolliffe* respecting the making a rate for the relief of the poor of the said parish, the said *William Jolliffe* hath always desired that such rate should be made by this deponent and the said *John Shurman* and *George Clarke*, as they should think proper and should appear to them to be just and right; and this deponent further saith, that he verily believes that the said *William Jolliffe* hath several times offered to maintain all the poor of the said parish at one half of the money which has been annually expended in the maintenance of the said poor; and this deponent further saith, that he was appointed one of the assessors of the land-tax for the parish of *Chipsted* for this year 1790, and that he assessed the lands of the said *William Jolliffe* according to the increased rents, and the said *William Jolliffe* being dissatisfied with such assessment appealed to the commissioners of the land-tax at the last day of appeal, when the said commissioners, being five present, on a full hearing, allowed the appeal of the said *William Jolliffe*, and ordered the rate to stand as heretofore; and this deponent doth expressly affirm, and maketh oath, that neither in making a rate for the land-tax of the relief of the poor, would he have allowed himself to be influenced against his judgment by the said *William Jolliffe* or any other person.

Sworn at *Mersham* in the county of *Surry* the 25th day of *October* 1790, before me,

Thomas Packham.
A. Broughton, commissioner, &c.

Mr. JOLLIFFE's Affidavit in Exculpation.

[The affidavit of Mr. *Jolliffe* read.]

The said defendant *William Jolliffe* maketh oath and saith, that in or about the year 1788, he this deponent agreed to purchase a very considerable estate in the county of *Surry*, a part of which is situate in the parish of *Chipsted* in the said county; that this deponent upon his taking possession of the said estate found that the rate or assessment made for the relief of the poor of the said parish of *Chipsted* was extremely high, being to the amount of 5 s. in the pound or thereabouts, on the rack-rents, &c. adjoining parishes not paying more than 3 s. in the pound or thereabouts, and he had great reason to imagine that the money raised for the relief of the poor was very lavishly expended; and this deponent's estate being very considerable, and conceiving that it would tend to the general advantage of the parishioners residing in the said parish, that the money raised for the relief of the poor of the said parish should be expended with frugality, he determined to make every investigation, and to pursue every lawful means in his power to promote a reduction in the expences relative to the poor

poor of the said parish; that in consequence of such his determination this deponent had several conversations with the parishioners of *Chipsted* aforesaid on this subject, and much of the conversation said to have passed between this deponent and *James Fuller* to the best of this deponent's recollection and belief which by the evidence of the said *James Fuller* happened near eight months prior to the appointment on which the present information is founded, was relative to the rates or assessments for the relief of the poor of *Chipsted* aforesaid, then to be made by the then owners, in which, if alterations had taken place as to the deponent's estates in the said parish, much dispute and possible litigation would to this deponent's belief have arisen; and this deponent further saith, that as this deponent has been informed and believes, that according to the custom of the county of *Surry* and by the uniform decisions of the courts of quarter-sessions in that county, improvements of estates in the hands of the improver, are not liable to be taxed or rated, and that as this deponent believes to the best of his recollection, at this distance of time, the words of this deponent respecting his appealing against any increase of rates, alluded principally to improvements of lands in his own occupation not only in the parish of *Chipsted*, but generally through his estate, and this is so stated by said *James Fuller*; and this deponent further saith, with respect to the conversation alluded to with *John Reeves*, it appears to be stated in the evidence of the said *John Reeves* to relate only to an objection to being rated at the nominal rent for such estates as this deponent had agreed to let free from taxes, and which rate therefore so far as this deponent paid taxes would have been a rate upon the tax, to which mode of rating this deponent humbly conceives he had a right to object, and to appeal to the proper court for redress; and this deponent further saith, that the two church-wardens, namely, *James Fuller* and *John Reeves*, were, as he believes, totally inimical to any object that could be proposed by this deponent, the said *James Fuller* and *John Reeves* being appointed church-wardens of *Chipsted* aforesaid in opposition to his this deponent's wishes, this deponent could not expect to obtain from them any assistance; this deponent's object therefore of preventing the wasteful expenditure of the parish money, could only be effected by the joint and unanimous concurrence of all the three overseers of the poor; and this deponent further saith, that in appointing the overseers of the poor, he selected men of property, over whom he could have no undue influence; and this deponent further saith, to the best of his belief, *George Clarke* one of the overseers of the said parish of *Chipsted*, by him appointed, was by trade a miller, and possessed of considerable landed property, the whole of which, as this deponent believes, was in his own occupation, and for which he also conceives the said *George Clarke* paid all parochial taxes, and the said *George Clarke*, as this deponent hath heard and believes, rented a considerable farm of *William Lambert*, esq; one of the prosecutors in this cause, for which the said *George Clarke* himself paid the parochial taxes; and further, that the said *George Clark* rented only fourteen pounds *per annum* of this deponent, for which he also paid parochial taxes, so that it was evidently against the interest of the said *George Clarke* to have consented that any partial rate should have been made in favour of this deponent, the said *George Clarke* being a substantial person and pay-
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ing also parochial taxes; this deponent considered him as a proper person and the most so that could be fixed upon to effect the desirable object of lessening the expences of maintaining the poor in the said parish of *Chipsted*: and this deponent further saith, that *John Shurman*, another of the overseers of *Chipsted* aforesaid, appointed by him, had taken a lease of the whole farm, which he rents of this deponent, for the term of seven years, prior to the making the said appointment of overseers, on which this information is founded: and that this deponent had not any undue influence over the said *John Shurman*; and that *Thomas Packham*, the other overseer is, as this deponent believes, a man of unimpeachable and irreproachable character, and incapable, as this deponent believes, of becoming a party for any illegal purpose of making a partial rate: and this deponent further saith, that he humbly conceives no unjust purpose of his for making a partial rate, could have been carried into execution without all the said three overseers had united in making such rate, which, if partial, must have been diametrically opposite to the interest of the said *George Clarke*: and this deponent further saith, that there being no poor house in the parish of *Chipsted*, and a very proper house for that purpose in the parish of *Merstham*, the adjoining parish, one great object of this deponent was to maintain the poor of the two parishes in one and the same house, by which a great saving would be made, and the tax of the said parish would be considerably lessened, to the great benefit of the parishioners of *Chipsted* aforesaid: and for that purpose this deponent called one or more meetings at his house, of the inhabitants of the two parishes, in order to consult thereupon; but from the opposition given by persons inimical to any reform in the expenditure of the money raised for the poor, the same was not carried into effect: and this deponent further saith, that to the best of his recollection and belief, he never applied to the said *George Clarke* to take upon him the office of overseer until after the appointment had been made: and this deponent further saith, that the refusal of the said *John Shurman*, *Thomas Packham*, and *George Clarke*, to take on them the office of overseers of the poor of the said parish of *Chipsted*, is, he humbly conceives, the strongest proof that this deponent had no undue influence over their conduct; for if they would have made a rate, as this deponent wished them to do in conformity to the opinion of counsel, (*William Adam*, Esq; a barrister at law, practising in this court) this deponent never could have been charged with making a fraudulent rate, because the impartiality of the rate would then have appeared on the face of it: and this deponent further saith, that since the purchase of the said estate at *Chipsted*, he offered at his own expence, to cloath the poor children of the said parish of *Chipsted*, which he intended to do annually; and also to inoculate the poor of the said parish; and which offer was communicated to the overseers of the poor; but who declined to accept the offer: and this deponent further saith, that although he is owner of nearly one-half of the said parish of *Chipsted*; yet that no one of his tenants have since he has become the owner thereof, been appointed churchwarden or overseer of the poor: and this deponent further saith, that after the trial of the cause on which he is now suffering imprisonment, it was expressly agreed by the solicitor for the prosecution, and so understood by the counsel then present, that the present information should be no further proceeded in, and that the causing it to be tried during

during the time this deponent was confined, created the greatest injury to this deponent and unhappiness to himself and family : and this deponent further saith, that so understanding that this prosecution would be dropt ; and in order to do every thing that could be required of him, he withdrew the appeal which had been before the said trial, entered against the rate for the relief of the poor of the said parish of *Chipstead* : and this deponent further saith, that he has already paid to Mr. *Bryant*, his late solicitor, above 1000 *l* for the defence against this and the former prosecution.

Mr. JOLLIFFE's *Speech to the Court.*

Mr. *Jolliffe*.—" My Lords, in the very unhappy situation in which I stand, with infinite anxiety upon my mind ; and having laboured under much indisposition since I have been in confinement, you will, I am sure, reasonably believe that I cannot speak with that degree of accuracy I ought to do, nor state to you so fully as I would wish, the circumstances of my case. I must therefore implore your pardon, for any thing that may escape from me that ought not. My Lords I am to look to you as the fountain of justice. If my conduct hath been that which deserves punishment, let me bear it ; if, on the contrary, I can make it appear to your satisfaction that I have not only not done that which was corrupt and base ; but in my situation have done that which it was my duty to do, I rest, my Lords, assured, (and I speak with more confidence on that account), that I shall receive from you something that shall be equal to an acquittal. I have not to plead the excuse either of youth or ignorance. I know that a justice of the peace may be one of the greatest blessings to the country in which he resides ; and I know that he may be one of the greatest curses to society. Undoubtedly therefore it well becomes you to watch over the conduct of persons so intrusted. I do not pretend to say that I have acted from rashness ; it would be no excuse for me if I had ; I certainly acted from the purest motives and most upright intentions ; it is impossible for any man to think me more guilty than I should think myself if any thing like the charge brought against me was really and substantially true, because I should not only be the vilest of persons under my circumstances, but the most ungrateful to that exalted and high character, to that noble person who appointed me a justice of the peace. When I purchased the property I possess in the county of *Surry*, that noble person was pleased (on the slightest suggestion of mine) to appoint me singly to that office. I was not recommended ; it was his own goodness that placed me in that situation. I had sat in parliament several years with him ; and if he had seen that baseness in my disposition, that has been attributed to me (most unjustly) if he could have thought that Mr. *Jolliffe* could have been guilty of such conduct, he would not have given me his countenance. My Lords I have been most cruelly and
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most grossly traduced. I have been represented as a person who bought his estate merely to raise the rents, and then to sell it. Good God, my Lords, I could not have done it if it had been my disposition, I bought it for the purpose of living in that county, and leaving it to my posterity, I hope honourably. My Lords, with respect to the case immediately before you, I will now proceed to make out to you, even in the first instance, that it was impossible I could have in view the object attributed to me. I do not mean, under technical terms, to deny the act I have done. I should be ashamed standing here before you to tell an untruth. I certainly made the appointment with an intent it should have effect; my counsel thought proper to offer you a point reserved by the judge of assize, that was not by my suggestion; I rather thought it was improper so to do, because I knew I made the appointment, intending it should have effect. Under the circumstances in which I stood it was impossible I could carry into execution the desirable object of the reformation of the parish, but by appointing three overseers. The two churchwardens were decidedly averse to any proposition I could make, though they would be benefitted in some degree by a reduction of the expences of the poor: but, my Lords, I believe in all places something like Politics has an effect on mens' minds, that it is a wrong thing to support a right measure brought forward by people whose disposition in general we disapprove. The churchwardens disapproved of me; they were of another party; and therefore they could not believe that I would give support to measures which were to their advantage. I was therefore under the necessity of appointing three overseers; for unless I had a majority, no reform in the wasteful expenditure of the parish money could be effected. One of the persons that was appointed I could have no possible influence over, and the contrary might be inferred from the situation in which he stood; It was almost impossible, but entirely improbable, to suppose that Mr. *Clarke* could give assistance to me for the making a fraudulent rate; he is a miller of very considerable property: he rents of the prosecutor a very considerable farm, for which he pays parochial taxes: he is an occupier also of his own estate, for which he pays parochial taxes. This Mr. *Clarke* I have never dealt with; he supplied Mr. *Fanshawe* with all the flour consumed in his family: he is also a grocer and chandler, and supplied him with those articles. I had no more influence over him than any of the gentlemen who stand here; but I appointed him because I thought him most likely of any man whatever to reduce the expences of maintaining the poor. Mr. *Clarke* was not at all linked in their politics; and I knew too that he was not particularly partial or friendly to me. He was a middle man, and I protest solemnly I had not the least idea of influencing him, conceiving he would do what was right. With respect to Mr. *Shurman*, he was a tenant of mine, and had his farm under lease, not a very beneficial one. I had no particular influence over him; with respect to the other man, he is certainly my bailiff; he is a very sensible man, and a man of very unimpeachable integrity, and a man of the utmost uprightness: if I thought otherwise, he should not pay and receive the large sums he does for me. Therefore there could not be a probability of my appointing Mr. *Clarke* for

for the purpose of making a corrupt rate, and unless Mr. *Clarke* would have concurred, there could not be a corrupt rate made: it could not have been made good or bad without the concurrence of the majority of the parish officers; therefore there must have been Mr. *Clarke* on either side to have so concurred. Now can it be supposed that Mr. *Clarke* would have made such rate to oblige me; and would have done an act so injurious to himself, for he paid the parish rates: that he would have disoblige his particular customer and friend, Mr. *Fanshawe*: can any person imagine that I could have had that influence over him to make a rate whereby he was to injure himself, and disoblige his landlord, &c. Mr. *Fanshawe*. I am sure there were many other persons more likely to have answered such a purpose; he was the last man I could have pitched upon if I had any such thing in my contemplation; can any man therefore (considering the subject impartially) suppose that I am so perfectly idiotish as to appoint, (with a view to a corrupt act) that man of all men most under the controul of others and least under mine. My Lords there is a pretty strong proof that I had not any influence over any of them, which was that they would not act at all. I could not persuade them to do that which was right, much less could I persuade them to do that which was wrong. By such conduct am I brought into the very unfortunate situation in which I stand; for if they would have made a rate, their conduct would have been plain to all the world, and I could not have been brought here under the charge of appointing them for the purpose of making a corrupt and fraudulent rate; I hope you go with me in this. My Lords, having now stated to you the situation in which these people stood respecting me; and how perfectly improbable it was that I could have appointed them with this view; what is the object I was to gain? The other parish officers, for these people would not act. The parish officers appointed by the gentlemen that act at *Reigate*, have, since that time, made a rate, and you may easily suppose that they have not spared any thing that they conceive I may have increased my estate. You may easily suppose that they have rated me to the very utmost that they think they ought to do. Now, my Lords, the utmost that they have said my estate is increased is 66*l.* 10*s.* a year. Now I never heard of a rate being made for any of the parishes, at more than 1*s.* in the pound, therefore, all this wickedness, all this fraud, all this baseness attributed to me, was to procure a rate in my favour of 3*l.* 6*s.* 6*d.* that was the utmost I could have gained on their own statement, and yet all this was liable to appeal, it was all liable to expence, it was all liable to contest ten times more than any thing I could have gained by it. The quarter sessions would have set aside the rate, justice would have been done to the parties, and I could not have gained any thing if I had it in view; but supposing I had gained all I could have wished, 3*l.* 6*s.* 6*d.* is the utmost, and my Lords, give me leave to ask, is it in the mind of man to conceive that I could so step out of the way, so much lessen and degrade myself, and subject myself to all this misery for 3*l.* 6*s.* 6*d.* therefore, setting aside the improbability of Mr. *Clarke* acting with me, I apprehend it is actually impossible that any man could have been so idiotish as I am represented to be; my Lords, now with your permission, (for I mean to give the fullest extent that the adversaries against me can possibly ask,) I will take the evidence as they have stated it, and I will be bound to shew out of

their own evidence, there is not any thing like a proof of corruption in my conduct. Mr. *Fuller* states, that I told him that I had a great estate in the parish of *Chipted*, that I called it one of my parishes; my Lords, it is no great offence I hope, in any person to say, that they conceive such a place where they have a very large property, is one of their parishes; by one of my parishes, I mean, that it is a place that I take under my protection; he says, that I told him, I intended to make a considerable improvement in my estate, but what that improvement might be, I could not tell; I did not state the nature of the improvement, no indeed, I did not; now to any one who understands the *English* language, which Mr. *Fuller* certainly does not, it is impossible if he had talked of improvement, that he could have meant raising of rents, raising of rents is not an improvement, it is the cultivation of timber, it is the draining lands, it is chalking of lands, it is sowing lands with those things that are most beneficial; these my Lords, are improvements, and any man, who understands *English* could only so interpret what I said. It is I understand, an universal practice in the county of *Surry*, that improvements in the hands of the improver, are not liable to be rated, and so I understand, you have determined on an application made here.

Lord *Chief Justice*.—We certainly never decided it, we only said the court of quarter sessions were the sole judges of what was the rate.

Mr. *Jolliffe*.—Then I have been misinformed, but however nobody will deny that I am right in my first position, that it is the universal opinion of the county of *Surry*, that if persons were to be rated immediately on valuation for improvements in their own hands, it would open a door to contest, and be a bar to all improvement whatever, no man would improve his land, if he was to be liable to surveyors setting an estimation on his improvements; I am continually, and shall I dare say, as long as I live, be attending to such improvements, I am encouraging timber, I am laying lands down to grass, I am now carrying these things into execution, and for which I certainly conceive, while in my occupation, I am not liable to be rated; the only object I had in view by this appointment, namely, the reducing the expences of the poor, was a great article of improvement in my estate and could only be effected by this means. My Lords, it is my duty, I could not excuse myself, if I were not to state to you fully the whole of my mind on this subject, if I were not to prove to you, I have done what was my duty. Mr. *Reeves*, states that I refused to let my lands “unless he would take them tax-free; for me to pay the tax, he said it “was usually paid by the tenants, that he did not understand taking “lands in that manner, but that I said I would pay the taxes myself, “that I said, I would not be increased in those taxes.” Surely there is nothing improper in this. Supposing I had a farm let at 125 *l.* a year, the taxes for which amount to 25 *l.* a year. I am not liable to be rated for that 25 *l.* because it is a tax, and in that case would be a tax on a tax. I think he speaks as if I had held out threatening language, as if I meant to awe them into any thing that I wanted them to do; the manner in which an expression is used totally varies the sense of it. The fact is, I said to *Reeves*, as to this I must appeal, I remember

ber particularly using this expression, "when you once begin to appeal, you will go to the quarter sessions, and from thence to *Westminster-hall*, and when you get there, for any thing I know, it may cost you 1000*l.*" That was the way in which I expressed myself. My Lords, I have explained this conversation with *Fuller* and *Reeves*, I have stated, and shewn that my conversation with *Fuller* related to improvements, and not to increase of rent, and his evidence cannot but be so understood; *Reeves's* evidence is express, that I would appeal, if rated for encrease of rent, on account of parochial taxes paid by me, which undoubtedly are not rateable. This is the whole of the evidence against me. Let me my Lords ask you, is there one word of this evidence, that shews that I was in any respect interested, in any rate that could be made, that I applied to any of these persons for the purpose of making any rate, or that I could in this appointment, have any corrupt or base view? I understand what influenced the minds of the jury, was the statement of my conduct to the vestry. My Lords, I have been represented as the most oppressive wretch that ever appeared.

But the object of a particular person has been to drive me from the county. Much stress has been laid that I said in the vestry, "I would bring them to their senses," I expressed myself thus, "you perfectly misunderstand me, I mean to do good to you, I mean to serve you, I mean to restrict the expenditure of the parish money, I hope I shall make you sensible of my good intentions, and I hope, I shall bring you to your senses." My Lords, some of the inhabitants of this little parish are not unlike some more important men, there are those in that place as in this country, that think there ought to be a subversion of all government, I think those people completely out of their senses, and if I had any opportunity to speak to them, I should tell them, "you are completely out of your senses, you are really erroneous in this, and I hope, I shall make you sensible of your error." My Lords, if there is any thing more, I should be glad to explain it, but I do not recollect any other thing that has been stated as improper in my conversation at the parish meeting. My Lords, this prosecution has been carried on with a great deal of violence and asperity, what the object of it has been, it is not for me to say, but I hope, I have now stated to you, (though in a style perfectly unadorned, yet at the same time) in such a manner, as to convince you that I had not the view, and the motive that has been ascribed to me. My Lords, in your hands every thing that is valuable, and that is dear to me, now rests, not only my Lords, what is dear to me, but dear to my children. If you think of my conduct as I am sure it was, you will acquit me by some means of the charge, and redeem me from the unjust imputation which has been attempted to be thrown on me. I ought perhaps, my Lords, to say a word of the manner in which I was placed in the commission of the peace, the circumstances of which, I take it, gave particular offence to some persons in the neighbourhood, and it was thought, I meant to do some injurious act to a gentleman, the clerk to the justices there, a Mr. *Barnes*; I shewed no such disposition, but I was the only person that resided there, and was the only person that could know any thing of that neighbourhood, the gentlemen who came to act at *Reigate*, did not treat me with any degree of decent civility, and I had therefore no reason

son to hope for their concurrence in this necessary appointment of three overseers, without which, this important reform could not be produced ; My Lords, I have I hope, truly, stated the case, and whatever your judgment may be, it will be my duty to receive it with patience and resignation, but at the same time, I must say that the justices of the peace in this kingdom, are in the most calamitous and unhappy situation, indeed, if they are liable to be prosecuted for acts that they conceive to be right, because they are supposed to be inimical to a very rich, or a very powerful attorney, in the neighbourhood. My Lords, I can only bow to your judgment, trusting and confiding that you will think (considering what I have said,) that I have done nothing but what is perfectly right.

F I N I S.

